IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.MC.No. 2741 of 2007()

S.T.NO.1228 PF 2005 OF J.F.C.M -IV, ERNAKULAM

PETITIONER: ACCUSED

R.CHANDRAN,
S/O.RAMAN NADAR,
PROPRIETOR, VENKATESWARA FILMS,
T.C.24/593, THYCAUD, TRIVANDRUM.

BY ADV. SRI.AJITH KRISHNAN

RESPONDENTS:

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1. T.K.RAGHAVAN, S/O.KUTTAPPAN,
THOZHUTHUNGAL HOUSE, VILANGU P.O.,
EDATHALA VIA, ALUVA, ERNAKULAM.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. KAMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2741 of 2007

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Dated this the 7th day of September, 2007

O R D E R

The petitioner finds a warrant of arrest issued by the learned J.F.C.M.-IV, Ernakulam in a prosecution under Section 138 of the N.I. Act chasing him. The name of the petitioner is R.Chandran. He is son of Raman Nadar. Admittedly he is the Proprietor of Venkiteswara Films, T.C.24/593, Thycaud, Trivandrum. According to him, he does not know the complainant at all. He is not the account holder of the cheque in question drawn on Catholic Syrian Bank, though the said cheque is also seen signed by the Proprietor of Venkiteswara Films. According to the petitioner, it is not his signature which appears in the cheque. According to the petitioner, the cheque is not drawn on an account maintained by the petitioner at all. It is an account maintained by somebody else. The petitioner is being proceeded against unnecessarily. This is the grievance raised by the petitioner. The warrant of arrest is chasing him. Hence he is unable to appear before the learned Magistrate.

2. After discussions at the Bar, I am satisfied that appropriate directions can be issued as requested and agreed by the learned counsel to resolve this unnecessary controversy.

3. This Crl.M.C. is accordingly allowed in part. The following directions are issued under Section 482 Cr.P.C.

(1) The warrant of arrest issued against the petitioner in S.T. 1228 of 2005 by the J.F.C.M. -IV, Ernakulam shall not be executed till the next date of posting.

(2) The petitioner shall appear before the learned Magistrate on the next date of posting. The learned Magistrate shall ascertain from the petitioner whether the petitioner is the one he wants to prosecute. Even if the complainant asserts that the petitioner is the one, against whom he wants to proceed, the petitioner shall be released on his executing a bond without any sureties. He shall appear again on the next day as directed by the learned Magistrate and seek regular bail.

(3) The learned Magistrate shall certainly consider the grievance of the petitioner that he is not really the person, who is arrayed as an accused in the complaint. Appropriate orders shall be passed on merits after giving opportunities to both sides to adduce evidence on that contention in the

course of trial, if the complainant asserts that the petitioner is the real accused.

(R. BASANT)
Judge

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